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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,303	11/14/2003	Brian S. McCain	TUC920030126US1 (16991)	2111
46263 7590 10/09/2008 SCULLY, SCOTT, MURPHY, & PRESSER, P.C. 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530				
EXAMINER				
DAO, THUY CHAN				
ART UNIT		PAPER NUMBER		
2192				
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10/09/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/714,303

Applicant(s)

MCCAIN, BRIAN S.

Examiner

Thuy Dao

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
5) ☐ Claim(s) ____ is/are allowed.
6) ☒ Claim(s) 1-14 is/are rejected.
7) ☐ Claim(s) ____ is/are objected to.
8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on July 21, 2008 has been entered.

2. Claims 1-14 have been examined.

Response to Arguments

3. Applicants' arguments have been considered. After further consideration, the examiner notes that Tompkins (art of record, US Patent No. 6,862,616) also teaches the newly added limitations:

enabling the client host to request and download additional code as needed (e.g., FIG. 1, enabling Client Administrator 104 to request and download additional code to administer a third server 102 (first time to be administered), FIG. 1, col.3: 60 – col.4: 11),

the additional code being code that the client host needs to perform a function as the client host performs work (e.g., col.2: 41 – col.3: 23 and FIG. 1, Client Administrator 104 currently administers a first server and a second server and now needs additional code to administer the third server 102; FIG. 2, col.5: 1-63) *and*

determines that the client host does not have the needed additional code in the first software to perform the function (e.g., col.7: 60 – col.8: 5, the additional code is needed because the third server 102 is administered for the first time and the Client Administrator 104 does not have said needed additional code to administer the third server 102; col.1: 11-18; col.3: 60 – col.4: 1, requesting and downloading said needed additional code to administer said third server 102; col.4: 2-11; FIG. 4, col.6: 18 – col.7: 59).

Accordingly, the examiner respectfully maintains ground of the 35 USC §103 rejection over claims 1-14.

Claim Rejections – 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tompkins (art of record, US Patent No. 6,862,616) in view of Zilliacus (art of record, US Patent No. 6,832,230).

Claim 1:

Tompkins discloses a program storage device and *a method for use by a client host in obtaining software* (e.g., FIG. 1, col.3: 51 – col.4: 65), comprising:

establishing a session with a first server host (e.g., col.2: 41-60; col.4: 12-29); and

downloading first software from the first server host for use during the session to implement a client side of a first version of a first network application (e.g., col.4: 30-65; col.3: 46 – col.4: 11),

the client side initially not having a functionality for implementing the first network application (e.g., col.2: 41 – col.3: 23);

wherein the first software is compatible with software executed at the first server host to implement a server side of the first version of the first network application (e.g., FIG. 2, col.5: 1-63);

enabling the client host to communicate with a different server that is using a version of the first network application and allowing the client host to download

client-side code of the different version of the same first network application from the different server (e.g., col.1: 11-18; col.4: 2-11; FIG. 4, col.6: 18 – col.7: 59),

wherein the client host is allowed to communicate simultaneously with one or more different servers even if the different servers are running different versions of the same first network application (e.g., col.5: 64 – col.6: 17; col.7: 49-59);

enabling the client host to request and download additional code as needed (e.g., FIG. 1, requesting and downloading additional code to administer a third server 102, FIG. 1, col.3: 60 – col.4: 11),

the additional code being code that the client host needs to perform a function as the client host performs work (e.g., col.2: 41—col.3: 23; FIG. 2, col.5: 1-63;) and

determines that the client host does not have the needed additional code in the first software to perform the function (e.g., col.7: 60 – col.8: 5, the third server 102 may be administered for the first time; col.1: 11-18; col.4: 2-11; FIG. 4, col.6: 18 – col.7: 59).

Tompkins does not explicitly disclose *implementing at the client host a timer for deleting said first software after a predetermined amount of time, said timer being set by said first server host or said client host.*

However, in an analogous art, Zilliacus further discloses:

implementing at the client host a timer for deleting said first software after a predetermined amount of time (e.g., col.3: 54 – col.4: 5; col.4: 9-29; col.6: 23-29),

said timer being set by said first server host or said client host (e.g., col.9: 11-18; col.3: 54-61; col.4: 9-19).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine Zilliacus' teaching into Tompkins' teaching. One would have been motivated to do so to obtain applications on an as needed basis and/or free memory space for new applications as suggested by Zilliacus (e.g., col.9: 11-18; col.3: 34-43; col.6: 53-63).

Claim 2:

The rejection of claim 1 is incorporated. Tompkins also discloses *downloading the first software from the first server host dynamically, as needed, by the client host* (e.g., col.3: 51 – col.4: 65; col.2: 41-60).

Claim 3:

The rejection of claim 1 is incorporated. Tompkins also discloses *the client host initiates the downloading when it determines that it needs the first software to interact with the first server host* (e.g., col.4: 12-65; col.5: 1-63).

Claim 4:

The rejection of claim 1 is incorporated. Tompkins also discloses *downloading the first software as at least one object using at least one specialized class loader* (e.g., col.6: 18 – col.7: 59).

Claim 5:

The rejection of claim 1 is incorporated. Tompkins also discloses:
establishing a session with a second server host; and downloading second software from the second server host for use during the session therewith to implement a client side of a second version of the first network application that differs from the first version (e.g., col.2: 41 – col.3: 23; col.5: 64 – col.6: 17);
wherein the second software is compatible with software executed at the second server host to implement a server side of the second version of the first network application (e.g., col.3: 51 – col.4: 65; col.6: 18 – col.7: 59).

Claim 6:

The rejection of claim 5 is incorporated. Tompkins also discloses *the sessions with the first and second server hosts overlap, at least in part* (e.g., col.5: 1-63; col.3: 46 – col.4: 11).

Claim 7:

The rejection of claim 1 is incorporated. Tompkins also discloses:

establishing a session with a second server host; downloading second software from the second server host for use during the session therewith to implement a client side of a second network application that differs from the first network application (e.g., col.3: 51 – col.4: 65; col.6: 18 – col.7: 59);

wherein the second software is compatible with software executed at the second server host to implement a server side of the second network application (e.g., col.2: 41 – col.3: 23; col.4: 12-65).

Claim 8:

The rejection of claim 1 is incorporated. Tompkins also discloses:

establishing a further session with the first server host; downloading second software from the first server host for use during the further session to implement a client side of a second network application that differs from the first network application (e.g., col.5: 1-63; col.3: 46 – col.4: 65);

wherein the second software is compatible with software executed at the first server host to implement a server side of the second network application; and the session and further session with the first server host overlap, at least in part (e.g., col.2: 41 – col.3: 23; col.6: 18 – col.7: 59).

Claims 9-14:

Claims 9-14 are program storage device versions, which recite the same limitations as those of claims 1-8, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the references teach all of the limitations of the above claims, they also teach all of the limitations of claims 9-14.

Conclusion

6. Any inquiry concerning this communication should be directed to examiner Thuy Dao (Twee), whose telephone/fax numbers are (571) 272 8570 and (571) 273 8570,

respectively. The examiner can normally be reached on every Tuesday, Thursday, and Friday from 6:00AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached at (571) 272 3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Thuy Dao/
Examiner, Art Unit 2192

/Tuan Q. Dam/
Supervisory Patent Examiner, Art Unit 2192